



**INDIVIDUAL AGREEMENT
ON
FIRST NATION LAND MANAGEMENT**

BETWEEN

MUSQUEAM INDIAN BAND

AND

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

11/3/02

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THIS AGREEMENT made in duplicate this 4th day of July, 2013.

**INDIVIDUAL AGREEMENT
ON
FIRST NATION LAND MANAGEMENT**

BETWEEN:

MUSQUEAM INDIAN BAND, as represented by their Chief and Council
(hereinafter called "Musqueam")

AND

HER MAJESTY THE QUEEN IN RIGHT OF CANADA, (hereinafter called
"Canada") as represented by the Minister of Indian Affairs and Northern
Development (hereinafter called "the Minister")

("the Parties")

WHEREAS the *Framework Agreement* on First Nation Land Management was
signed by Canada and fourteen first nations in 1996 (the "*Framework Agreement*")
and was ratified and brought into effect by the *First Nations Land Management Act*,
S.C. 1999, c. 24 (the "*Act*");

AND WHEREAS Musqueam was one of the fourteen first nations that signed the
Framework Agreement on First Nation Land Management in 1996;

AND WHEREAS Musqueam and Canada wish to provide for the assumption by
Musqueam of responsibility for the administration of Musqueam Reserve Land in
accordance with the *Framework Agreement* and the *Act*;

AND WHEREAS clause 1.4 of the *Framework Agreement* states that the Crown's
special relationship with First Nations will continue;

AND WHEREAS clause 6.1 of the *Framework Agreement* and subsection 6(3) of the
Act require Musqueam to enter into an individual agreement with the Minister for the
purpose of providing for the specifics of the transfer of administration;

AND WHEREAS subsection 6(3) of the *Act* further requires that the individual
agreement provide for the date and other terms of the transfer to Musqueam of
Canada's rights and obligations as grantor of interests and licenses in or in relation to
the land, the environmental assessment process that will apply to projects until the
enactment of applicable First Nation laws, and any other relevant matter;

AND WHEREAS clause 6.1 of the *Framework Agreement* further requires that the

individual agreement settle the actual level of operational funding to be provided to Musqueam;

NOW THEREFORE, in consideration of the exchange of promises contained in this Agreement and subject to its terms and conditions, the Parties agree as follows:

1. INTERPRETATION

1.1 In this Agreement,

"Act" means the *First Nations Land Management Act*, S.C. 1999, c.24, as amended;

"Additions to Reserve Policy/New Reserve Policy" means the policy and procedural guidelines pertaining to additions to reserve and the creation of new reserves that are set out in the Department of Indian Affairs and Northern Development Canada's Land Management and Procedures Manual, as amended or replaced from time to time;

"this Agreement" means this Individual Agreement on First Nation Land Management, including the Annexes attached hereto, and any documents incorporated by reference, all as amended from time to time;

"Musqueam Reserve Land" means the land to which the Land Code will apply and more specifically means the Reserves known as Musqueam Indian Reserve No. 2 (08358), Sea Island Indian Reserve No. 3 (08359), and Musqueam Indian Reserve No. 4 (07927) as described in the Legal Description Report(s) referred to in Annex "G" and includes all the interests in and resources of the land that are within the legislative authority of Parliament;

"*Federal Real Property and Federal Immovables Act*" means the *Federal Real Property and Federal Immovables Act*, S.C. 1991, c. 50, and regulations made thereunder, as amended or replaced from time to time;

"Fiscal Year" means Canada's fiscal year as defined in the *Financial Administration Act*, R.S.C. 1985, c. F-11, as amended;

"*Framework Agreement*" has the same meaning as in the *Act*;

"Funding Arrangement" means an agreement between Canada and the Musqueam for the purpose of providing funding to the Musqueam, during the Fiscal Year(s) identified in that agreement, for Musqueam programs, services and activities described in that agreement;



"*Indian Act*" means the *Indian Act*, R.S.C. 1985, c. I-5, as amended;

"*Land Code*" means the Musqueam Land Code, developed in accordance with clause 5 of the *Framework Agreement* and section 6 of the *Act*;

"*Minister*" means the Minister of Indian Affairs and Northern Development and his or her duly authorized representatives;

"*Operational Funding*" means the resources to be provided by Canada to Musqueam pursuant to clause 30.1 of the *Framework Agreement* to manage First Nation lands and make, administer and enforce its laws under a land code, and includes financial resources, as described in clause 27 of the *Framework Agreement*, to establish and maintain environmental assessment and environmental protection regimes;

"*Operational Funding Formula*" means the method approved by Canada for allocating to First Nations such Operational Funding as may have been appropriated by Parliament for that purpose.

- 1.2 Unless the context otherwise requires, words and expressions defined in the *Framework Agreement*, the *Act* or the *Indian Act* have the same meanings when used in this Agreement.
- 1.3 This Agreement is to be interpreted in a manner that is consistent with the *Framework Agreement* and the *Act*.
- 1.4 In the event of any inconsistency or conflict between the wording in any Article set out in the main body of this Agreement and the wording in any Annex attached hereto, the wording set out in the Article shall prevail.
- 1.5 Musqueam agrees that the lands listed in the definition of Musqueam Reserve Land are within the boundaries of those Indian Reserves, but reserves the right to
 - (a) assert that other lands that are not shown as being reserve land in the Legal Description Report referred to in Annex "G", are reserve lands, including, without limitation, roads and adjacent lands in Musqueam Indian Reserve No. 2 in which the City of Vancouver is shown as the grantee; and

- (b) take all legal steps available to it in law to have those other lands included within the boundaries of those Indian Reserves

and this Agreement is without prejudice to such right.

2. INFORMATION PROVIDED BY CANADA

2.1 In accordance with clause 6.3 of the *Framework Agreement*, the Minister will provide Musqueam with the following information as soon as practicable:

- (a) a list, attached as Annex "C", and access to copies of all the interests and licences granted by Canada in or in relation to the Musqueam Reserve Land that are recorded in the Reserve Land Register and the Surrendered and Designated Lands Register;
- (b) a list, attached as Annex "D", and copies all existing information in Canada's possession, respecting any actual or potential environmental problems with the Musqueam Reserve Land; and
- (c) a list, attached as Annex "E", and copies of any other information in Canada's possession that materially affects the interests and licences mentioned in clause 2.1(a).

3. TRANSFER OF LAND ADMINISTRATION

3.1 The Parties acknowledge that, as of the date the Land Code comes into force, Musqueam shall have the power to manage the Musqueam Reserve Land in accordance with section 18 of the *Act* and clause 12 of the *Framework Agreement*.

3.2 As provided in subsection 16(3) of the *Act*, Canada hereby transfers to Musqueam all of the rights and obligations of Canada as grantor in respect of the interests and licences in or in relation to Musqueam Reserve Land that exist on the coming into force of the Land Code.

3.3 As of the date the Land Code comes into force, Musqueam shall be responsible for, among other responsibilities identified in this Agreement, the *Framework Agreement* and the *Act*, the following:

- (a) the collection of all rents and other amounts owing, payable or accruing pursuant to any instrument granting an interest or a license in or in relation to Musqueam Reserve Land; and
- (b) the exercise of any power and authorities, and performance of any covenants, terms and conditions, under the instruments referred to in



paragraph (a) which, but for the transfer, would have been Canada's responsibility.

- 3.4 The Parties acknowledge that the transfer of administration referred to in this Agreement is subject to section 39 of the *Act*, which provides for the continuation of the application of the *Indian Oil and Gas Act*.
- 3.5 Without affecting or limiting the foregoing, Canada agrees to resolve those issues affecting Musqueam Reserve Land as specifically listed in Annex "E" where Canada is identified in such Annex as the person/entity responsible.

4. ACCEPTANCE OF TRANSFER OF LAND ADMINISTRATION

- 4.1 Musqueam hereby accepts the transfer of land administration described in Article 3 of this Agreement, including, without limitation, the transfer of all the rights and obligations of Canada as grantor of the interests and licenses referred to in clause 3.2 of this Agreement.
- 4.2 As of the date the Land Code comes into force, and in accordance with the *Framework Agreement* and section 18 of the *Act*:
- (a) the land management provisions of the *Indian Act*, as listed in clause 21 of the *Framework Agreement* and section 38 of the *Act*, cease to apply and Canada retains no powers in relation to Musqueam Reserve Land under these provisions;
 - (b) Musqueam shall commence administering Musqueam Reserve Land pursuant to its Land Code.

5. RECOMMENDATION TO SET APART LANDS AS RESERVE

- 5.1 The Minister will recommend to the Governor in Council that the roads and adjacent lands in Musqueam Indian Reserve No. 2 in which the City of Vancouver is shown as the grantee (the "Lands"), be set apart by Canada as reserve for the use and benefit of the Musqueam provided that the following terms and conditions are met:
- (a) the acquisition or transfer of the Lands is accepted by Canada pursuant to the provisions of the *Federal Real Property and Federal Immovables Act*, subject to receipt of title in a good and satisfactory condition as determined by Canada in its sole discretion acting reasonably, including free and clear of all reservations, restrictions, encumbrances or encroachments, except



those reservations, restrictions, encumbrances or encroachments as are acceptable to Canada; and

- (b) Canada is satisfied that the Lands meet the Additions to Reserves/New Reserves Policy, including but not limited to, Musqueam:
 - (i) agreeing to provide services to; and
 - (ii) agreeing to, consenting to, or providing access tenure for, affected leaseholders that is consistent with the existing services and access provided by the City of Vancouver.

5.2 Once the Lands defined in clause 5.1 of this Agreement is set apart by Canada as reserve for the use and benefit of the Musqueam, this Agreement will need to be amended in order to bring the Lands under the application of the Land Code.

5.3 For greater certainty, the Musqueam acknowledges that in order to bring the Lands defined in clause 5.1 under the application of the Land Code, it must do so in accordance with the procedures set out in the Land Code.

6. OPERATIONAL FUNDING

6.1 In accordance with clause 30.1 of the Framework Agreement, and subject to appropriation by Parliament and the approval of the Treasury Board of Canada, Canada shall provide Operational Funding to Musqueam as indicated in Annex "A" in accordance with the Operational Funding Formula as amended from time to time.

6.2 The Operational Funding referred to in clause 6.1 will be incorporated by the Parties into Musqueam's Funding Arrangement in effect in the year in which the payment is to be made. For greater certainty, payment of Operational Funding will be subject to the terms and conditions of the Funding Arrangement into which it is incorporated.

6.3 All obligations of Canada to fund Musqueam, as required under Part V (Environment) and Part VI (Funding) of the *Framework Agreement*, have been addressed by the Operational Funding Formula.



7. TRANSFER OF REVENUES

- 7.1 Following the date that the Land Code comes into force, Canada shall transfer the revenue moneys referred to in section 19 of the *Act* and clause 12.8 of the *Framework Agreement* to Musqueam in accordance with the provisions set out in Annex "B".
- 7.2 Revenue moneys transferred pursuant to clause 7.1 shall be deposited in Musqueam's account at such financial institution as Musqueam may direct by notice in writing.
- 7.3 For greater certainty, the transfer of the revenue moneys does not release Musqueam from its commitment to reimburse Canada for any amount paid as a result of a default under any loan entered into by Musqueam or any of its members and guaranteed by Canada in accordance with the terms and conditions relating to ministerial loan guarantees.
- 7.4 For greater certainty, all Indian moneys deemed to be capital moneys pursuant to section 62 of the *Indian Act* are not to be transferred to Musqueam pursuant to this Agreement.

8. NOTICE TO THIRD PARTIES OF TRANSFER OF ADMINISTRATION

- 8.1 Immediately following approval of the Land Code and this Agreement by the members of Musqueam, Musqueam shall give written notice (the "Notice of Transfer of Administration"), by registered mail, to each holder of an interest or a licence in or in relation to Musqueam Reserve Land that is recorded in the Reserve Land Register or the Surrendered and Designated Lands Register,.
- 8.2 The Notice of Transfer of Administration must state that
- (a) the administration of Musqueam Reserve Land and Canada's rights in Musqueam Reserve Land, other than title, have been transferred to Musqueam effective the date this Land Code comes into force;
 - (b) the holder of the interest or license must pay to Musqueam, all amounts owing, payable or due under the interest or licence on or after that date; and
 - (c) as of that date, Musqueam shall be responsible for the exercise of the powers and authorities, and the performance of any covenants, terms and conditions, under that instrument which, but for the transfer of administration, would have been Canada's responsibility.

- 8.3 Musqueam shall deliver to Canada a copy of every Notice of Transfer of Administration and a copy of every acknowledgement of receipt of the Notice of Transfer of Administration received by Musqueam within 30 days of the issuance or receipt of the same.
- 8.4 The Notice obligations set out in this Article do not apply in respect of a holder of an interest or license who is a member of Musqueam.

9. INTERIM ENVIRONMENTAL ASSESSMENT PROCESS

- 9.1 As of the date the Land Code comes into force, the environmental assessment process set out in Annex "F" will apply to projects on Musqueam Reserve Land until the coming into force of First Nation laws enacted in relation to that subject.

10. AMENDMENTS

- 10.1 This Agreement may be amended by agreement of the Parties.
- 10.2 Any amendment to this Agreement must be in writing and executed by the duly authorized representatives of the Parties.

11. NOTICES BETWEEN THE PARTIES

- 11.1 Any notice or other official communication under this Agreement between the Parties must be in writing addressed to the Party for whom it is intended.
- 11.2 The notice referred to in clause 11.1 will be effective using any one of the following methods and will be deemed to have been given as at the date specified for each method:
- (a) by personal delivery, on the date upon which notice is delivered;
 - (b) by registered mail or courier, the date upon which receipt of the notice is acknowledged by the other party; or
 - (c) by facsimile or electronic mail, the date upon which the notice is transmitted and receipt of such transmission by the other party can be confirmed or deemed.

11.3 The addresses of the Parties for the purpose of any notice or other official communication are:

Canada:

Director, Lands and Economic Development
Department of Indian Affairs and Northern Development
BC Region
600 – 1138 Melville Street
Vancouver, BC V6E 4S3

604-666-6474

Musqueam Indian Band:

6735 Salish Drive
Vancouver, BC V6N 4C4

604-263-4212

12. DISPUTE RESOLUTION

12.1 For greater certainty, any dispute arising from the implementation, application or administration of this Agreement may be resolved in accordance with the Dispute Resolution provisions set out in the *Framework Agreement*.

13. DATE OF COMING INTO FORCE

13.1 The Parties acknowledge that the Land Code and this Agreement must be approved by the members of Musqueam in accordance with the *Framework Agreement* and the *Act*.

13.2 Articles 8, 10 and 11 of this Agreement shall come into force as of the day Musqueam and the Minister sign this Agreement.



13.3 The remainder of this Agreement not already in force on the date of the signing of this Agreement shall come into full force and effect on the date the Land Code comes into force.


IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first written above.


Her Majesty the Queen in right of
Canada, as represented by the Minister
Of Indian Affairs and Northern
Development


Minister of Indian Affairs and Northern
Development

CHIEF


Chief


Councillor


Councillor



Councillor


Councillor


Councillor


Councillor


Councillor


Councillor





ANNEX "A"

FUNDING PROVIDED BY CANADA

- (a) The Operational Funding Formula in effect for Fiscal Years 2012-2013, 2013-14, 2014-2015, 2015-2016 is described in the Memorandum of Understanding on Funding dated for reference the 19th day of October, 2011, between the Operational First Nation signatories to the Framework Agreement and Canada. Musqueam has been identified under a Tier II funding level.
- (b) Operational Funding for the Fiscal Year from April 1, 2012 to March 31, 2013 has been calculated in accordance with the Operational Funding Formula. The amount before proration is set out in the table below.
- (c) The amount of the Operational Funding for the Fiscal Year from April 1, 2012 to March 31, 2013 shall be prorated based on the number of months from the date that the Land Code comes into force to the end of the Fiscal Year.
- (d) As part of the Operational Funding, Transitional and Environmental Funding will be provided for the year the land code comes into force and for the subsequent fiscal year, as shown in the table below, in the amount of \$75,000 for two subsequent fiscal years, for a total of \$150,000.
- (e) Subject to appropriation by Parliament and the approval of the Treasury Board of Canada, Operational Funding for Fiscal Years after the Fiscal Year ending March 31, 2016 shall be calculated and provided in accordance with the Operational Funding Formula as amended from time to time.

OPERATIONAL FUNDING	
FISCAL Year from April 1, 2012 to March 31, 2013	\$ 251,636.00 (This amounts shall be prorated in accordance with para. (c) above.)
FISCAL Years from April 1, 2012 to March 31, 2013	\$75,000.00 - One Time Transitional and Environmental Funding per 1 st Fiscal Year
FISCAL Years from April 1, 2013 to March 31, 2014	\$75,000.00 - One Time Transitional and Environmental Funding per 2 nd Fiscal Year
FISCAL years from April 1, 2013 to March 31, 2016	\$251,636.00 per Fiscal Year
Subsequent FISCAL Years	Subject to para. (e) above, Operational Funding will be calculated and paid each Fiscal Year based on the Operational Funding Formula in effect at the time.



ANNEX "B"

DETAILS FOR THE REVENUE MONEYS TRANSFER

1. As of the 21st day of September, 2012, Canada is holding \$4,989,552.45 of revenue moneys for the use and benefit of the Musqueam or its members. This amount is included for information purposes only and is subject to change.
2. **Initial Transfer.** Within thirty (30) days of the Land Code coming into force, Canada shall transfer to the First Nation all revenue moneys collected, received or held by Canada for the use and benefit of the Musqueam or its members.
3. **Subsequent Transfers.** Canada shall, on a semi-annual basis, transfer to Musqueam any interest that is paid into the Musqueam's revenue moneys account thereafter pursuant to subsection 61(2) of the *Indian Act*. This includes any interest paid on capital moneys of the Musqueam while these moneys, if any, are being held in Canada's Consolidated Revenue Fund. The first such subsequent transfer shall be made in the month of April or October, whichever month comes first after the month of the initial transfer.



ANNEX "C"

LIST OF REGISTERED INTERESTS AND LICENCES GRANTED BY CANADA

All interests and licenses granted by Canada in or in relation to the Musqueam Reserve Land that are recorded in the Reserve Land Register and the Surrendered and Designated Lands Register are listed in reports that are available for review at the Musqueam Land Management Office located at 6735 Salish Drive, Vancouver, BC V6N 4C4:

- Reserve General Abstract Reports for:
 - Musqueam Indian Reserve No. 2 (08358)
 - Sea Island Indian Reserve No. 3 (08359)
 - Musqueam Indian Reserve No. 4 (07927)
- Lawful Possessors Reports for:
 - Musqueam Indian Reserve No. 2 (08358)
- Lease or Permits Reports for:
 - Musqueam Indian Reserve No. 2 (08358)
 - Sea Island Indian Reserve No. 3 (08359)
 - Musqueam Indian Reserve No. 4 (07927)

The above reports identify all interests or licenses granted by Canada that are registered in the Indian Lands Registry System (ILRS).

The following is a list of interests granted by Canada that have not been recorded in the ILRS:

- 6065067 Transfer dated 2012/04/18 LOT 88-1 DAN, VERNON CLAYTON to BAND
- 6067587 Transfer dated 2012/05/22 LOT 132-1 STOGAN, HARVEY TERRY to
STOGAN, COLBY PATRICK Joint tenancy



ANNEX "D"

**LIST OF ALL EXISTING INFORMATION IN CANADA'S POSSESSION RESPECTING
ANY ACTUAL OR POTENTIAL ENVIRONMENTAL PROBLEMS WITH THE MUSQUEAM
RESERVE LANDS**

Phase 1 Environmental Site Assessment (ESA), Musqueam First Nation, Vancouver, BC.
Teranis Consulting Ltd., December 2009.

Handwritten initials: JF and EM

ANNEX "E"

LIST OF OTHER INFORMATION PROVIDED BY CANADA THAT MATERIALLY AFFECTS INTERESTS AND LICENSES

Not applicable



ANNEX "F"

INTERIM ENVIRONMENTAL ASSESSMENT PROCESS

- (1) In this Annex,
- a. "CEAA 1992" means the *Canadian Environmental Assessment Act, S.C. 1992, c. 37* [repealed, 2012, c. 19, s. 66], as it read immediately prior to its repeal;
 - b. "CEAA 2012" means the *Canadian Environmental Assessment Act, 2012, S.C. 2012, c. 19, s. 52*, as amended from time to time.
- (2) The Parties agree that the provisions on environmental assessment in this Annex are without prejudice to any subsequent environmental assessment process they may agree upon in accordance with Clause 25.1 of the Framework Agreement for incorporation in First Nation laws respecting environmental assessment. The provisions in this Annex apply until replaced by First Nation laws respecting environmental assessment.
- (3) During the interim period prior to the enactment and coming into force of First Nations Laws with respect to environmental assessment of projects on Musqueam First Nation Land, the First Nation shall conduct environmental assessments of projects on Musqueam First Nation Land in a manner that is consistent either with the requirements of CEAA 1992 and clause (4) below or with the requirements of CEAA 2012 (or any federal environmental assessment legislation that may replace CEAA 2012 in the future). All assessments shall be conducted at the expense of the First Nation or of the proponent of the project.
- (4) The following provisions apply to an environmental assessment process conducted in a manner that is consistent with CEAA 1992:
- a. When the First Nation is considering the approval, regulation, funding or undertaking of a project on Musqueam First Nation Land that is not described in the exclusion list as defined in CEAA 1992, the Council of the First Nation shall ensure that an environmental assessment of the project is carried out, at the expense of the First Nation or the proponent, in accordance with a process that is consistent with that of CEAA 1992. Such assessment shall be carried out as early as practicable in the planning stages of the project before an irrevocable decision is made.
 - b. The First Nation shall not approve, regulate, fund, or undertake the project unless the Council has concluded, taking into consideration the results of the environmental assessment, any economically and technically feasible mitigation measures identified as necessary during the assessment, and any public comments received during the assessment, that the project is

unlikely to cause any significant adverse environmental effects or that any such effects are justifiable under the circumstances.

- c. If the First Nation approves, regulates, funds, or undertakes the project, the First Nation shall ensure that all mitigation measures referred to in paragraph b. are implemented at its expense or it is satisfied that another person or body will ensure their implementation. The Council shall also consider whether a follow-up program, as defined in CEEA 1992, is appropriate in the circumstances and if so, shall design a follow-up program and ensure its implementation.

ANNEX "G"

LEGAL DESCRIPTION OF MUSQUEAM RESERVE LAND

The following Natural Resources Canada First Nations Land Management Legal Description Reports are available for review at the Musqueam Land Management Office, 6735 Salish Drive, Vancouver, BC V6N 4C4:

- Musqueam Indian Reserve No. 2 (08358)
- Sea Island Indian Reserve No. 3 (08359)
- Musqueam Indian Reserve No. 4 (07927)

